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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,448	09/29/2000	Shawn D. Cartwright	CRTW-0004	3485

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George J. Awad
WOODCOCK WASHBURN KURTZ
MACKIEWICZ & NORRIS LLP
One Liberty Place - 46th Floor
Philadelphia, PA 19103

EXAMINER

HEWITT II, CALVIN L

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/676,448

Applicant(s)

CARTWRIGHT, SHAWN D.

Examiner

Calvin L Hewitt II

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Status of Claims

1. Claims 55-61, 63-65, 67, and 68 have been examined.

Claim Objections

2. Claim 68 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 68 is directed to a computer readable medium, however, claim 63 from which claim 68 depends is directed to a method. Therefore, claim 68 does not further limit claim 63.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 55 and 59-61 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 55 is directed to a software module. Software is not a machine, manufacture or composition of matter. It is not a physical thing. Nor is it a process as it does not describe acts to be performed. On the other hand, software embodied on a computer-readable medium, for example, is statutory as it defines a structural and functional interrelationship between itself and other claimed elements of a computer. Claim 55, however, is just software (MPEP 2106, section IV).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 55, 59-61, 63, 65, 67 and 68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. a. Claim 55 recites the limitation "the cheating operation" in line 15. There is insufficient antecedent basis for this limitation in the claim.

Claims 59-61 are also rejected as they depend from claim 55.

- b. Claims 55 and 63 are directed to "cheating". The term (i.e. "to cheat") is a relative term which renders the claim indefinite. The terms "cheat" or "cheating" are not defined by the claim, the specification does

not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. As previously stated, if the game allows for the Applicant's second set of rules to be implemented, it's not "cheating". Particularly, when these "second set of rules" are offered to a plurality of users and are created by the author or creator of the game (Specification, page 7, lines 21-27).

Claims 59-61, 65, 67 and 68 are also rejected as each depends from claim 55 or 63.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 55, 59-61, 63, 65 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roskowski et al., U.S. Patent No. 5,624,316 in view Hoyle, U.S. Patent No. 6,141,010.

As per claims 55, 59-61, 63, 65 and 68, Roskowski et al. teach a video game enhancement system (figure 1) comprising:

- an integration object providing seamless integration between a module and the game to allow the circumvention of a set of rules (column/line 5/46-6/9; column 6, lines 35-47 and 58-62)
- a transaction object for obtaining a second set of rules to circumvent a first set (column 6, lines 35-47 and 58-62; column 7, lines 1-5 and 23-35)
- a communication object to instruct a game to facilitate rule circumvention (column/line 5/25-6/9; column 6, lines 35-47 and 58-62)
- communicating circumvention code over a communication network (figure 1; column 7, lines 5-24 and 50-59)
- a transaction object for keeping a running tally of executed transactions, associates bill amounts to each transaction and aggregates the bill amounts for all transactions (column/line 5/65-6/3; column 6, lines 46-52; column 7, lines 4-5)
- instructions to communicate the aggregated (or tallying) bill amounts to a computing environment or display device (i.e. provide payment to an on-line service) (column 6, lines 52-57; column 7, lines 25-28)

- aggregating bill amounts while a game is being played (i.e. performing an accounting each instance when one or more of the rules is accessed (column 6, lines 46-49; column 7, lines 28-29)

Regarding the communication of accounting to another computing system for storage and display, Roskowski et al. teach instructions to communicate the accounting (i.e. usage billing data) to a computing environment (column 6, lines 52-57; column 7, lines 25-28). This allows the computing environment to manage a user account (column 7, lines 4-5). Therefore, as the computing environment stores the accounting, it would have been obvious to one of ordinary skill to display said accounting to an employee of the computing service (i.e. on-line service) while performing, for example, customer service functions on behalf of the user. Roskowski et al. also teach compiling statistics on game play (column 6, lines 46-48). However, Roskowski et al. do not explicitly recite teach monitoring game play to identify instances in which to offer a player an opportunity to access rules to circumvent the first set of rules. Hoyle teaches targeting ads to a user based on said user's interaction with a computer (abstract; column 11, lines 60-67). Specifically, Hoyle teaches storing advertisements on a user computer (column 14, lines 46-58), monitoring the user's computer activity and then providing advertisements that relate to what the user is doing on the computer (column 14, lines 38-45). Therefore, it would have

been obvious to one of ordinary skill to combine the teachings of Roskowski et al. and Hoyle in order to more accurately target enhancements ('316, column 6, lines 35-48) available to the user ('010, abstract; column 3, lines 15-18).

10. Claim 67 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roskowski et al., U.S. Patent No. 5,624,316 67 and Hoyle, U.S. Patent No. 6,141,010, as applied to 63 above, and in further view of Schneier et al., U.S. Patent No. 5,970,143.

As per claim 67, Roskowski et al. teach a video game enhancement system that allows for a user to provide new game features in place of the original (abstract; figure 1; column/line 5/25-6/9; column 6, lines 35-62; column 7, lines 1-35). Hoyle teaches targeting ads to users based on user interactivity with a computer (abstract). However, neither Roskowski et al. nor Hoyle teach displaying accounting as a computer game is being played. Schneier et al. teach a system that audits and meters game playing (column 45, lines 48-64; column 49, lines 1-32; column/line 51/55-52/24; column/line 55/15-56/26; column/line 58/65-59/17; column 60, lines 5-28; column 63, lines 5-50) that displays to a game player accounting such as metered usage costs (column/line 46/57-47/8). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Roskowski et al., Hoyle and Schneier et al. in order to inform the

user how much credit ('316, column 5, lines 38-41, column 6, lines 53-57) he/she has available.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (571) 272-6709. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell, can be reached at (571) 272-6712.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
c/o Technology Center 2100
Washington, D.C. 20231

or faxed to:

(703) 305-7687 (for formal communications intended for entry and after-final communications),

or:

(571) 273-6709 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

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A handwritten signature in black ink, appearing to read "Calvin Loyd Hewitt II". The signature is stylized with large, sweeping loops and a long horizontal stroke extending to the right.

Calvin Loyd Hewitt II

May 17, 2005